

SCHOOL SAFETY/DISCIPLINE MANUAL

SECTION IV: SUBSTANCE ABUSE

Table of Contents

A.	Definitions.....	1
B.	Policy Development	2
C.	Policy Implementation	2
D.	Reporting to Law Enforcement.....	3
E.	Investigating Violations of Substance Abuse Prevention Policy	4
F.	Responsibilities of the School District.....	4
G.	Sample Policy	
	<i>Student Drug and Tobacco Use, Policy No.551</i>	6

IV. SUBSTANCE ABUSE

Students attending Idaho secondary and elementary schools are prohibited from using or being under the influence of buying, selling or transferring, or otherwise possessing, controlled substances and alcohol on school property or at school sponsored events. Both the federal Drug-Free School and Communities Act of 1986¹ and Idaho Code §33-210 prohibit such conduct, and students who engage in such conduct may be disciplined

Specifically, the Idaho legislature, in adopting Idaho Code §33-210, recognized the importance of parental involvement in substance abuse prevention programs, and mandated that the school district policies address not only discipline and referral to law enforcement for substance abuse violations, but also notice to the parents and counseling for the student.²

A. DEFINITIONS

“Controlled substances” include opiates, opium derivatives, hallucinogenic substances, including cocaine, cannabis, synthetic equivalents of the substances contained in the plant, any material, compound, mixture or preparation with substances having a depressant effect on the central nervous system, and stimulants.³

“Reasonable suspicion” means an act of judgment by a school employee or independent contractor of an educational institution which leads to a reasonable and prudent belief that a student is in violation of school board or charter school governing board policy regarding alcohol or controlled substance use, or the “use” or “under the influence” provisions of section 37-2732C, Idaho Code. The act of judgment is to be based on training in recognizing the signs and symptoms of alcohol and controlled substance use.⁴

“Intentionally harass” means a knowing and willful course of conduct directed at a specific student that seriously alarms, annoys, threatens or intimidates the student and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.⁵

“Course of conduct” means a pattern or series of acts over a period of time, however, short, evidencing a continuity of purpose. Constitutionally and statutorily protected activity is not included within the meaning of “course of conduct.”⁶

“School personnel” include both school employees and independent contractors of the school district.

¹ As amended in 1989.

² Idaho Code §33-210(1).

³ Idaho Code §§37-2701 and 2702.

⁴ Idaho Code §33-210(5)(a).

⁵ Idaho Code §33-210(5)(b).

⁶ Idaho Code §33-210(5)(c).

B. POLICY DEVELOPMENT

The school district's board of trustees is required by Idaho Code §33-210 to adopt and implement comprehensive substance prevention policies. Specifically, the policies must address how school personnel will respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance.⁷ The policies must address issues of confidentiality, parent notification and availability of counseling. The school district must also address the procedures to be utilized by district personnel regarding contacting law enforcement and the student's parents when there exists reasonable suspicion that the student is using or under the influence of alcohol or any controlled substance.⁸

The district's policies must be published in the student handbook or similar annual publication.⁹

C. POLICY IMPLEMENTATION

Voluntary Disclosure

Students may disclose to counselors or other staff members that they are using or under the influence of alcohol or a controlled substance. To encourage treatment and rehabilitation, state law provides that when a student voluntarily discloses using or being under the influence of alcohol or controlled substance while on school property or at a school function, the student shall be provided anonymity. The exception for anonymity is that faculty may be informed on a "need to know" basis and as reasonably necessary to protect the health and safety of others.¹⁰ Additionally, the school district is obligated to notify the parents of the disclosure and the availability of counseling.

In other words, if the student reveals such use, or being under the influence, before the school official has reasonable suspicion, the information will be held confidential on a faculty "need-to-know basis" only. Parents will be informed of the disclosure and will be provided information regarding the availability of counseling.

Reasonable Suspicion

If a student is reasonably suspected of being in violation of the criminal statutes prohibiting use of controlled substances or the district policy, Idaho Code §33-210 mandates that the school district report the student to law enforcement. The responses from the local law enforcement agencies may vary greatly, depending on the situation and the philosophy of the local law enforcement agency. However, the district meets its statutory obligation upon making such report, regardless of the outcome.

Reasonable suspicion, as defined in Idaho Code §33-210(5)(a), must be based on the school official having a reasonable and prudent belief that the student is using or under the influence. The school personnel are not required to be certain that the student is using or under the influence. Rather, the underlying issue is whether there is sufficient evidence to support such a

⁷ The definition of "controlled substance" is set forth in Idaho Code §37-2732C.

⁸ Idaho Code §33-210(3)

⁹ Idaho Code §§33-210(3) and 33-512.6.

¹⁰ Idaho Code §33-210(1).

conclusion by a layman who has received training in recognizing the signs and symptoms of alcohol and controlled substance use.

Typically, the signs and symptoms include, but are not limited to, the following:

- Slurred speech;
- Slow, deliberate speech;
- Loud and boisterous behavior;
- Erratic behavior;
- Blood shot or glassy eyes;
- Distinctive odors of alcohol or marijuana smoke;
- Impaired ability to ambulate;
- Impaired ability to coordinate simple hand-eye movements;
- Possession of drug paraphernalia.

School officials are precluded from using a prior voluntary disclosure as a factor for determining that reasonable suspicion exists at a later date.

D. REPORTING TO LAW ENFORCEMENT

All incidences involving students who are reasonably suspected of using or being under the influence of alcohol or a controlled substance must be reported to law enforcement.¹¹ Incidents in which a student voluntarily discloses using or being under the influence are not reportable.

Additionally, school officials have the right to report any incident to law enforcement in which a student violates state law regarding possession, and/or selling, buying, or otherwise distributing alcohol or controlled substances.

As in all situations, the determination as to whether or not the student will be charged with a crime for his or her misconduct is left to the discretion of the local county prosecutor.

Good Faith Reporting

School personnel are protected from civil or criminal liability for reporting reasonable suspicion of use or being under the influence of alcohol or controlled substances. However, in the event that it is established that the employee or independent contractor reported the student in bad faith, or with malice, or otherwise used such authority to intentionally harass the student(s), the individual is not protected.¹²

¹¹ Idaho Code §33-210(1)

¹² Idaho Code §33-210(4)

E. INVESTIGATING VIOLATIONS OF SUBSTANCE ABUSE PREVENTION POLICY

Investigations of violations of a substance abuse prevention policy may be very complex. School personnel are sometimes reluctant to rely on their own observations in determining whether or not a student appears to be using or under the influence of alcohol or a controlled substance. School personnel are generally not in a position to be attempting to identify whether or not a suspicious substance is, in fact, a controlled substance. Further, allegations that a student is selling and buying or otherwise distributing alcohol or a controlled substance is a criminal issue that should be investigated solely by law enforcement.

- Students alleged to have used or be under the influence of alcohol or a controlled substance should be observed by trained school personnel to determine whether reasonable suspicion exists.
 - Observe the student's physical appearance
 - Observe the student's ability to ambulate and/or coordinate other routine movements.
 - Observe the student's speech patterns.
 - Observe the student's behavior (erratic, uncharacteristic)
- Observations should be documented.
- Students alleged to be in possession of alcohol, a controlled substance, or paraphernalia, should be accompanied at all times by school personnel so that he/she does not destroy or get rid of evidence.
- If warranted, student and his/her possessions, locker, and/or vehicle should be searched.

F. RESPONSIBILITIES OF THE SCHOOL DISTRICT

Policy Development. Develop policies in compliance with federal and state mandates. The policies should specifically prohibit the use, possession, selling, buying, or distributing, or being under the influence of, alcohol and controlled substances, on school property, and at school sponsored events.

Address issues of local concern, including prohibition of drug paraphernalia, "look-alike" drugs, and tobacco, as appropriate.

Develop procedures for providing notice that a student is using or under the influence to parents, and reporting violations of the district policy to law enforcement, as required pursuant to Idaho Code §33-210.

Develop appropriate policies regarding substance abuse for students participating in extracurricular activities.

Notice of Policies. Publish the policies in both the staff and student handbooks. If necessary, publish a summary of the policies, using age-appropriate language.

Curriculum/Student Training. Incorporate substance abuse prevention programs in the curriculum, as appropriate for the students' age and maturity.

Staff Training. Educate all staff members as to the prohibitions relative to abuse of alcohol and controlled substances. Assign specific staff members in each building to receive specific training regarding the recognition of signs and symptoms of alcohol and controlled substances use for the purpose of determining whether reasonable suspicion exists.

Prevention Strategies. Encourage students to voluntarily disclose use or being under the influence of alcohol or a controlled substance.

Intervention. Require staff members to intervene, as appropriate, when they have concerns regarding a student being in violation of the district's substance abuse policy. Require that staff members report the concerns to a building administrator or designee. Require staff members to document the incident.

Parental Notice. Develop procedures for notifying the student's parent(s), guardian(s), and/or custodian(s) in a timely manner that the student has voluntarily disclosed or has been reasonably suspected of using or being under the influence of alcohol or a controlled substance. "Timely manner" generally will mean the same or next school day, depending upon the urgency of the circumstances, as determined by the administrator making the contact. Provide parents with information regarding substance abuse prevention and counseling programs which are available at the school and/or in the community.

Reasonable Suspicion. Take interim steps, including removing the student from the classroom, so that trained school personnel may have an opportunity to determine whether reasonable suspicion exists. Make a determination as to whether or not reasonable suspicion exists. Document the basis for such determination.

Reporting to Law Enforcement. Report to law enforcement all instances in which trained school personnel have a "reasonable suspicion" that a student is using or under the influence of alcohol or a controlled substance.

Investigation. Thoroughly investigate all allegations that a student is under the influence of alcohol or controlled substances, or using, in possession of, selling, buying, or distributing alcohol, controlled substances or drug paraphernalia. Refer such investigation to law enforcement, if appropriate. Conduct an investigation of the allegations, regardless of their nature, in a timely manner.

Corrective Measures. Take appropriate corrective measures, including disciplinary action, when appropriate.

G. SAMPLE POLICY

Student Drug, Alcohol and Tobacco Use, Policy No. 551

PHILOSOPHY

It is the Idaho Legislature's intent that parental involvement in all aspects of a child's education in Idaho public schools be part of each school district's policy. Drug prevention programs and counseling for students under the custody and care of the public schools are included in this intent.

The board of trustees recognizes that student use of chemical substances, including alcohol, is a serious problem of utmost concern in our society. Drug, alcohol, and tobacco use is detrimental to a state of well-being and undermines the aim of education, which is to enable individuals to develop to their full potential. The district seeks to ensure the highest standards of learning in the classroom and recognizes that use of chemical substances—including alcohol, tobacco, and controlled substances—creates educational, economic, and legal problems.

DEFINITIONS

“Controlled substances” include, but are not limited to, opiates, opium derivatives, hallucinogenic substances, including cocaine, and cannabis and synthetic equivalents of the substances contained in the plant, any material, compound, mixture or preparation with substances having a depressant effect on the central nervous system, and stimulants.

“Course of conduct” involves a pattern or series of acts over a period of time, however short, evidencing a continuity of purpose. Course of conduct does not include constitutionally and statutorily protected activity.

“Drug” includes any alcohol or malt beverage, any tobacco product, any controlled substance, any illegal substance, any abused substance, any substance which is intended to alter mood, and any medication not prescribed by a physician for the student in possession of the medication.

“Intentionally harass” means a knowing and willful course of conduct directed at a specific student which seriously alarms, annoys, threatens, or intimidates the student and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.

“Reasonable suspicion” means an act of judgment by a district employee or independent contractor that leads to a reasonable and prudent belief that a student is in violation of this policy or the “use” or “under the influence” provisions of Idaho Code Section 37-2732C, which defines controlled substances. Such act of judgment is based on the employee's or

independent contractor's training in recognizing the signs and symptoms of alcohol and controlled substance use. The fact that a student has previously disclosed use of a controlled substance will not be deemed a factor in determining reasonable suspicion at a later date.

“School premises” includes all buildings, facilities, and property owned or leased by the district, school buses and other school vehicles, and the location of any school-sponsored activity or function.

POLICY

Students attending school in this district will not use, possess, sell, buy, or distribute drugs, including alcohol, tobacco, controlled substances, or related paraphernalia, on school premises.

Any student will violate the district's drug, alcohol, and tobacco use policy when:

- 1. He or she is on school premises, evidencing behavior that creates a reasonable suspicion that he or she may be illegally under the influence of drugs;*
- 2. He or she admits to using, possessing, selling, buying, or distributing drugs on school premises;*
- 3. He or she is found to use, possess, sell, buy, or distribute drugs, or related paraphernalia, on school premises;*
- 4. He or she is found to possess drugs, or related paraphernalia, or to have such substances on his or her person, or in his or her locker, vehicle, or other property on school premises.*

ALCOHOL OR CONTROLLED SUBSTANCES: VOLUNTARY DISCLOSURE

Any student who voluntarily discloses using or being under the influence of alcohol or any controlled substances before he or she is reasonably suspected to be in violation of the law and this policy will be provided anonymity to the extent that:

1. Disclosure is held confidential on a faculty need-to-know basis; and
2. Notification of the disclosure and availability of counseling is provided to the student's parent/guardian.

ALCOHOL OR CONTROLLED SUBSTANCES: REFERRAL TO LAW ENFORCEMENT

Once a student is reasonably suspected of being in violation of the law and this policy regarding alcohol or controlled substances, regardless of any previous voluntary

disclosure, the building principal or designee will immediately notify the student's parent or guardian and report the incident to the local law enforcement agency.

Any student exhibiting inappropriate behavior that suggests "using" or "being under the influence" of alcohol or controlled substances will be immediately escorted by a district employee to an administrative office for interviewing and observation by the principal or designee. Except in the case of an emergency, the student will not be left unattended and will not be allowed to leave the school premises.

The principal or designee will refer the student to the law enforcement agency if, upon observing and/or interviewing the student, he or she reasonably suspects that the student is using or under the influence of alcohol or a controlled substance. District employees will cooperate fully with any law enforcement investigation of a violation of this policy, including, but not limited to, providing access to lockers, desks, and other school property, and providing oral and/or written statements regarding the relevant events.

The principal or designee, and/or any other employee having observed the student's behavior will document his or her observations of the student; the documentation will be provided to the law enforcement agent, and a copy will be placed in the student's discipline record.

ENFORCEMENT PROCEDURES

The procedures to enforce this policy are as follows:

1. ***Suspension/Expulsion:*** *Students who violate this policy will be suspended by the principal. Suspension for the first offense of this policy will be for three to five (3-5) days, unless extraordinary circumstances exist. The time period for suspension for the second or third offense will be determined at the discretion of the principal and/or superintendent. The principal and/or superintendent will determine whether or not the suspension will be served in school or out of school.*

If deemed appropriate by the superintendent, he or she may request that the board expel a student who has violated this policy for a second or third offense.

2. **Referral to Law Enforcement:** *The student will be referred to the law enforcement agency, if appropriate. If the incident involves using or being under the influence of alcohol or a controlled substance, the student will be referred to the local law enforcement agency. In all other situations, referral to law enforcement will be at the discretion of the building principal or designee.*
3. **Search and Seizure:** *A student's person and/or personal effects (e.g., purse, book bag, etc.) may be searched whenever a school official has reasonable cause to believe that the student is in possession of drugs or drug paraphernalia. Any evidence that a student has violated the law and this policy may be seized by the principal or designee.*

Lockers and desks are school property and remain at all times under the control of the school; however, students are expected to assume full responsibility for the security of their lockers and desks. Authorized school officials may open and inspect lockers and desks when there is reasonable cause to believe that the locker or desk may contain items which may be a threat to safety and security. Such a search may be conducted without a search warrant, and without notice or consent.

Students are permitted to park on school premises as a matter of privilege, not right. The district retains the authority to conduct routine patrols of school parking lots and to inspect the exteriors of automobiles on school premises. The interiors of vehicles on school premises may be inspected whenever an authorized school official has reasonable cause to believe that illegal materials are contained inside. Such patrols and inspections may be conducted without notice, consent, or a search warrant.

4. **Parent Contact:** *The student's parent/guardian will be contacted as soon as possible following any alleged violation of this policy.*
5. **Conduct Contract:** *Any student violating this policy must sign a conduct contract before returning to school. Violation of the conduct contract may result in additional disciplinary measures.*
6. **Drug, Alcohol, and Tobacco Assessment/Treatment:** *The terms of the suspension and/or conduct contract may be modified, at the discretion of the principal or superintendent, if a student who has violated this policy voluntarily completes a drug, alcohol, and tobacco education course and/or undergoes assessment and treatment for drug, alcohol, and tobacco abuse.*

STUDENTS WITH DISABILITIES

Suspensions and expulsions of students with disabilities as defined by Public Law 94-142 and subsequent amendments (Individuals with Disabilities Education Act), Section 504 of the 1973 Rehabilitation Act, and the Americans with Disabilities Act will follow federal guidelines as well as the provisions of this policy.

IMMUNITY FOR GOOD FAITH IMPLEMENTATION

District employees and independent contractors of the district who implement this policy in good faith and with appropriate foundation are immune from civil liability.

INTENTIONAL HARASSMENT

District employees and independent contractors of the district are prohibited from using their authority to determine reasonable suspicion solely for the purpose of intentionally harassing a student. Using the authority in such a manner may result in disciplinary action against the employee or may be considered a breach of the district's contract with the independent contractor.

NOTICE

Upon adoption of this policy, the board will provide notice of the policy to each student, parent/guardian, or custodian *by publishing such notice in a newspaper of general circulation in the district*. Subsequently, a copy of the policy will be provided to each new student, as well as to the parent/guardian or custodian, at the time of initial registration in a district school.

**LEGAL REFERENCE:**

Idaho Code Sections

33-205

20-516

33-210

37-2705

37-2732C

Drug-Free Schools and Communities Act of 1988

PL 100-690 and all subsequent amendments

Individuals with Disabilities Education Act

PL 94-142 and subsequent amendments

Section 504 of the 1973 Rehabilitation Act

Americans with Disabilities Act

ADOPTED:**AMENDED:**

**Language in text set forth in italics is optional.*